

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 23, 2008

No. 08-30494
Summary Calendar

Charles R. Fulbruge III
Clerk

Danny Kirk

Plaintiff-Appellant

v.

Universal Underwriters of Texas Insurance Company

Defendant-Appellee

Appeal from the United States District Court
For the Western District of Louisiana
2:06-CV-1528

Before HIGGINBOTHAM, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:*

On April 2, 2008, in *Kirk v. Universal Underwriters of Texas Insurance Company*, No. 08-30273, a panel of this court rejected appellant's attempt to appeal the lower court's grant of summary judgment as to appellee, explaining that it lacked jurisdiction.¹ The substance of its opinion applies with full force

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

¹ "Federal appellate courts do not have jurisdiction over orders or judgments that do not dispose of the litigation in the district court." See 28 U.S.C. §§ 1291 and 1292. Such orders include, but are not limited to, orders dismissing fewer than all of the claims or parties in the

to this attempt at an appeal. Accordingly, this appeal must be and is DISMISSED.

litigation, except where the district court has certified the order for appeal under Fed. R. Civ. P. 54(b). See *Thompson v. Betts*, 754 F.2d 1243, 1245 (5th Cir. 1985) (an order dismissing fewer than all of the parties is not appealable absent Rule 54(b) certification). The district court has not so certified the judgment in the instant appeal. Accordingly, the appeal must be dismissed for lack of jurisdiction." Slip. op. at 1-2.